

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

VERRELL HARLEY, individually,  
  
Plaintiff,  
  
vs.  
  
ORBIS RPM, LLC, a Washington Corporation,  
formerly doing business as CORBI  
PLASTICS, LLC, a Washington Corporation;  
DOES 1-100  
  
Defendants.

No. 2:14-cv-01501

NOTICE OF REMOVAL TO FEDERAL  
COURT BY DEFENDANT ORBIS RPM,  
LLC

TO: JUDGES OF THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF WASHINGTON AT SEATTLE,

AND TO: Steven D. Weier and Theresa Buchner of The Law Office of Steven D. Weier,  
Inc., PS, PLAINTIFF'S COUNSEL;

PLEASE TAKE NOTICE that pursuant to 28 U.S.C. §§ 1332, 1441 and 1446,  
Defendant Orbis RPM, LLC hereby removes this action from the Superior Court of the State  
of Washington in and for the County of King to the United States District Court for the  
Western District of Washington at Seattle.

NOTICE OF REMOVAL TO FEDERAL COURT  
BY DEFENDANT ORBIS RPM, LLC – 1  
so/AED/3521.070/1642132



WILSON  
SMITH  
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**Statement of Grounds for Removal**

1. The Plaintiff alleges injuries and damages arising from a purported product defect. Although not specifically pled in the lawsuit, as explained below, information from recent discovery shows that the Plaintiff is seeking damages that exceed \$75,000.

2. On August 4, 2014, Plaintiff filed a Lawsuit against Orbis with King County Superior Court, entitled *Verrell Harley*, King County Cause Number 14-2-21596-7 KNT. The Complaint did not identify any amount of alleged damages. A copy of the Complaint is Exhibit A to Donohue Decl.

3. The undersigned counsel filed a notice of appearance on behalf of Orbis on August 22, 2014. On September 5, 2014, Defendant served on Plaintiff a request for statement of damages.

4. On September 16, 2014, Plaintiff, through his counsel, transmitted a settlement demand package. The total demand was \$113,000.00. Donohue Decl.

5. On September 22, 2014, Plaintiff, through his counsel, served Orbis with his response to Defendant's Request for Statement of Damages and identified \$120,755.36 in general and special damages. Exhibit B to Donohue Decl.

6. On September 29, 2014, Orbis filed with the United States District Court Western District of Washington at Seattle a *Notice of Removal of Action* under 28 U.S.C. §1441(a), (b) and (c). Pursuant to 28 U.S.C § 1446(d), *Notice of the Removal* was provided to the Superior Court for King County, and Plaintiff's attorneys also on September 29, 2014.

7. This notice of removal is brought pursuant to 28 U.S.C. §§1441(a), 1446 and Western District CR 101(a) and (b). This Court has original jurisdiction pursuant to 28 U.S.C. §1332(a) and (c) on the basis that there is complete diversity of citizenship between

1 the parties and the amount in controversy is in excess of \$75,000, exclusive of interest and  
2 costs.

3 8. Orbis RPM, LLC, formerly doing business as Corbi Plastics, LLC, is a  
4 Wisconsin Corporation with its principal place of business in Wisconsin.

5 9. Based upon information and belief, the Plaintiff is a resident of the State of  
6 Washington. There is, therefore, complete diversity of citizenship between the parties  
7 pursuant to 28 U.S.C. §1332 (a) and (c).

8 10. This Notice of Removal is timely because it has been filed within thirty (30)  
9 days after Orbis first learned that the amount of controversy is greater than \$75,000. Orbis  
10 has filed this removal within one year of Plaintiff filing this lawsuit. 28 U.S.C. § 1446(b).

11 11. This Notice of Removal is brought pursuant to 28 U.S.C. §§1441(d), 1446 and  
12 Western District CR 101(a) and (b).

13 12. As explained above the Plaintiff did not plead a specific amount of damages.  
14 Nor was there any evidence showing that the amount in controversy exceeded \$75,000 until  
15 Plaintiff provided Orbis with his Settlement Demand and served his responses to Orbis'  
16 Requests for Statement of Damages. The Statement of Damages alleges \$7,488 in wage loss,  
17 \$13,267.36 in medical expenses, and \$100,000 in general damages. Based on his Answers to  
18 those Requests, it is now clear that Plaintiff is seeking relief that t is in excess of \$75,000.

19 13. The underlying state court action is one for which this Court has original  
20 jurisdiction under the provisions of 28 U.S.C. § 1332, and is one that may be removed to this  
21 Court by Defendant pursuant to the provisions of 28 U.S.C. § 1441 because the matter in  
22 controversy exceeds the sum or value of \$75,000 and is between citizens of a State and  
23 citizens or subjects of a foreign state.  
24  
25  
26

1           14. Pursuant to 28 U.S.C. § 1332(a) and (c), § 1441(a), § 1446(a), (b) and (d), and  
2 Western District CR 101(a) and (b) of the Local Rules for the Western District of  
3 Washington, this case is properly removable.

4           15. This notice of removal is brought pursuant to 28 U.S.C. §§1441(a), 1446 and  
5 Western District CR 101(a) and (b). This Court has original jurisdiction pursuant to 28  
6 U.S.C. §1332(a) and (c) on the basis that there is complete diversity of citizenship between  
7 the parties and the amount in controversy is in excess of \$75,000, exclusive of interest and  
8 costs.  
9

10           16. Pursuant to 28 U.S.C. § 1332(a) and (c), § 1441(a), § 1446(a), (b) and (d), and  
11 Western District CR 101(a) and (b) of the Local Rules for the Western District of  
12 Washington, this case is properly removable.

13           17. Orbis has given written notice of the filing of this *Notice of Removal* to all  
14 attorneys of record and to the Clerk of the Superior Court of King County, Washington. 28  
15 U.S.C. § 1446(d).  
16

17           18. Additionally, removal to the United States District Court for the Western  
18 District Washington is proper because the state court where the State Court Action originally  
19 was filed is located in the Western District of Washington. *See* 28 U.S.C. § 1441(a).

20           19. Orbis reserves the right to amend or supplement this *Notice of Removal*.

21           20. Should Plaintiff file a motion to remand this case, Orbis respectfully requests  
22 the opportunity to respond more fully in writing, including the submission of affidavits or  
23 other evidence and authorities.  
24

25           21. By filing this *Notice of Removal*, Orbis does not waive, and expressly reserves,  
26 all defenses available under Rule 12 of the Federal Rules of Civil Procedure.

**Notice to State Court and Proper Filing of Records**

22. A notice of the filing of this *Notice of Removal* and a true copy of this *Notice of Removal* will be filed with the Clerk of the Superior Court of the State of Washington in and for the County of King as required by 28 U.S.C. § 1446(d).

23. Copies of all records and proceedings in the state court together with the Declaration of Alfred E. Donohue verifying that they are true and complete copies of all the records and proceedings in the State Court Action is filed concurrently with this *Notice*. Copies of all records and proceedings in the state court are attached as Exhibit C to the Declaration of Alfred E. Donohue.

24. WHEREFORE, Orbis requests that this case currently pending in the Superior Court be placed on the docket of the United States District Court for the Western District of Washington.

DATED this 29<sup>th</sup> day of September, 2014.

By: s/Alfred E. Donohue

Alfred E. Donohue, WSBA No. 32774

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donohue@wscd.com

Attorney for Defendant Orbis RPM, LLC



**CERTIFICATE OF SERVICE**

I hereby certify that on September 29, 2014, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the parties below:

**Attorney for Plaintiff**

Steven D. Weier  
THE LAW OFFICES OF STEVEN D. WEIER,  
INC PS  
331 Andover Park E., Suite 100  
Tukwila, WA 98188  
Email: sweier@weierlaw.com;

**SIGNED** this 29<sup>th</sup> day of September, 2014.

s/ Yana Strelyuk

Yana Strelyuk, legal secretary to  
Alfred E. Donohue, WSBA No. 32774  
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Attorney for Defendant Orbis RPM, LLC